

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

MELVIN CURTIS ELLIS, JR.	§	
VS.	§	CIVIL ACTION NO. 1:14-CV-580
STATE OF TEXAS	§	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff, Melvin Curtis Ellis, Jr., proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against the defendant the State of Texas.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends plaintiff’s claims be dismissed for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6).

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleadings. Plaintiff filed objections to the Report and Recommendation of United States Magistrate Judge. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the Court finds plaintiff’s objections lacking in merit. As outlined by the Magistrate Judge, the Eleventh Amendment “bars an individual from suing a state in federal court unless the state consents to suit or Congress has clearly and validly abrogated the state’s sovereign immunity.” *Perez v. Region 20 Educ. Serv. Ctr.*, 307 F.3d 318, 326 (5th Cir. 2002). 42 U.S.C. § 1983 does not waive Eleventh Amendment immunity. *Pennhurst State School & Hosp. v. Halderman*, 564 U.S. 89, 99, 104 S.Ct. 900, 79 L.Ed.2d 67 (1984). Plaintiff’s claims, therefore, should be dismissed for failure to state a claim.

ORDER

Accordingly, the objections of plaintiff are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So **ORDERED** and **SIGNED** this **31** day of **August, 2015**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge